

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TERRELL O'NEAL

Plaintiff,

No. CIV S-04-0270 LKK CMK P

vs.

SGT. VAUGHN¹, et al.,

Defendants.

ORDER

Plaintiff is a state prisoner proceeding without counsel and in forma pauperis in this civil rights action. This matter was referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72-302(b)(21).

By findings and recommendations filed March 24, 2006, this court recommended that this action be stayed pending the outcome of Vaden v. Summerhill, Case No. 05-15650, which was pending in the Ninth Circuit. The findings and recommendations were never adopted. The Ninth Circuit has issued a decision in Vaden and defendants have filed a motion to dismiss.

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¹Although the name "Vaughn" is in the caption, it appears that the correct name for this defendant is "Voong." The correct name for this defendant is reflected in plaintiff's August 24, 2004 response to the court's order to show cause and in defendants' motion to dismiss.

1 Accordingly, the March 24, 2006 findings and recommendations (doc. 28) are moot and the court
2 will vacate them.

3 IT IS ORDERED that:

- 4 1. The findings and recommendations filed March 24, 2006 (doc. 28) are vacated.
5 2. The Clerk of the Court is directed to term defendants March 16, 2006 request
6 for a stay. (Doc. 27).

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8 DATED: October 19, 2006.

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11 **CRAIG M. KELLISON**
12 UNITED STATES MAGISTRATE JUDGE
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